

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #3	CCRB Case #: 202002799	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/10/2020 10:30 PM, Friday, 04/10/2020 11:00 PM	Location of Incident: Intersection of Saint Johns Place and Ralph Avenue, 73rd Precinct stationhouse.	Precinct: 73	18 Mo. SOL 10/10/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 04/17/2020 2:42 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 04/17/2020 2:42 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Daniel Twohig	01924	962141	073 PCT
3. POF Jasmine Wright	20402	963337	073 PCT
4. POM Keith Stark	03636	961325	GVSD Z1
5. Richard Catapano		961675	
6. LT Alexander Bobo	00000	947985	060 DET
7. SGT Steven Franzel	03573	945733	073 PCT
8. POM Brian Mahon	23144	949240	GVSD Z1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dana Ladson	10196	941282	073 PCT
2. POM Jamal Moya	20924	958958	073 PCT
3. POM Ivan Rodriguez	21064	959411	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Alexander Bobo	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Lieutenant Alexander Bobo stopped the vehicle in which § 87(2)(b) was an occupant.	
B.LT Alexander Bobo	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Lieutenant Alexander Bobo stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Brian Mahon	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Brian Mahon searched § 87(2)(b)	
D.POF Jasmine Wright	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Jasmine Wright searched § 87(2)(b)	
E.POM Daniel Twohig	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Daniel Twohig searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

Officer(s)	Allegation	Investigator Recommendation
F.POM Brian Mahon	Abuse: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
G. Richard Catapano	Off. Language: At the 73rd Precinct stationhouse in Brooklyn, Richard Catapano made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)	
H. Richard Catapano	Discourtesy: At the 73rd Precinct stationhouse in Brooklyn, Richard Catapano spoke discourteously to § 87(2)(b)	
I.POM Keith Stark	Discourtesy: At the 73rd Precinct stationhouse in Brooklyn, Police Officer Keith Stark spoke discourteously to § 87(2)(b)	
J.POM Daniel Twohig	Off. Language: At the 73rd Precinct stationhouse in Brooklyn, Police Officer Daniel Twohig made offensive remarks to § 87(2)(b)	
K.LT Alexander Bobo	Abuse: At the 73rd Precinct stationhouse in Brooklyn, Lieutenant Alexander Bobo threatened § 87(2)(b) with the use of force.	
L.SGT Steven Franzel	Abuse: At the 73rd Precinct stationhouse in Brooklyn, Sergeant Steven Franzel threatened § 87(2)(b) with the use of force.	
M. An officer	Off. Language: At the 73rd Precinct stationhouse in Brooklyn, an officer made offensive remarks to § 87(2)(b)	
N. An officer	Off. Language: At the 73rd Precinct stationhouse in Brooklyn, officers made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
O.POM Keith Stark	Untruthful Stmt.: On March 24, 2021, Police Officer Keith Stark provided a misleading official statement to the CCRB.	

Case Summary

On April 17, 2020, § 87(2)(b) filed this complaint with the CCRB by phone.

On April 10, 2020, at approximately 11:00 p.m., § 87(2)(b) was driving in the vicinity of Ralph Avenue and Saint Johns Place in Brooklyn with his girlfriend, § 87(2)(b) when he was stopped by three officers, Lt. Alexander Bobo, PO Daniel Twohig, and PO Brian Mahon, who were all assigned to the 73rd Precinct (**Allegation A and B: Abuse of Authority; § 87(2)(g)**). During the search, the officers removed § 87(2)(b) and § 87(2)(b) from the vehicle and PO Mahon and PO Jasmine Wright searched § 87(2)(b) § 87(2)(b) and their vehicle (**Allegations C through E: Abuse of Authority; § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were then transported to the 73rd Precinct stationhouse.

At the stationhouse, § 87(2)(b) was lodged in the holding cell by PO Twohig, PO Keith Stark, and PO Richard Catapano. During the processing, PO Catapano made discourteous and offensive remarks to § 87(2)(b) (**Allegations F and G: Offensive Language and Discourtesy; § 87(2)(g)**). At one point, § 87(2)(b) stripped, exposing himself to the officers, to which PO Stark remarked, “No one asked to see your dick” (**Allegation H: Discourtesy; § 87(2)(g)**). PO Twohig also commented, “You really look homeless” to § 87(2)(b) (**Allegation I: Offensive Language; § 87(2)(g)**). During the processing, Lt. Bobo and Sgt. Steven Franzel entered the holding cell with their tasers drawn (**Allegations J and K: Abuse of Authority; § 87(2)(g)**). An officer also allegedly referred to § 87(2)(b) as a faggot and told him he had a “small dick” (**Allegations L and M: Offensive Language; § 87(2)(g)**).

It was determined that during his CCRB interview, PO Stark made an inaccurate statement to the investigation (**Allegation N: Untruthful Statement; § 87(2)(g)**).

Body-worn camera (BWC) footage was received from Lt. Bobo, PO Twohig, PO Mahon, PO Wright, and PO Ivan Rodriguez [BR01 through BR06, respectively]. Stationhouse footage from the 73rd Precinct stationhouse was also received by the investigation [BR07 through BR09].

Findings and Recommendations

Allegation (A) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Lieutenant Alexander Bobo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Lieutenant Alexander Bobo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Brian Mahon searched § 87(2)(b)

Allegation (D) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Jasmine Wright searched § 87(2)(b)

Allegation (E) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Daniel Twohig searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (F) Abuse of Authority: At the intersection of Saint Johns Place and Ralph Avenue in Brooklyn, Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that Lt. Bobo stopped § 87(2)(b) and § 87(2)(b) although it remains in dispute whether § 87(2)(b) was driving recklessly or if he had excessive tints.

§ 87(2)(b) testified that he was driving with § 87(2)(b) when he observed a car following them from behind. After about ten minutes of driving, the car activated its lights and sirens, and § 87(2)(b) pulled over. He stated that, to his knowledge, he did not commit any traffic violations prior to being stopped. Lt. Bobo, PO Twohig, and PO Mahon then approached the car. PO Mahon asked § 87(2)(b) “You didn’t see me?” and informed him that he did not

immediately pull over, which § 87(2)(b) denied. § 87(2)(b) provided his license and registration to PO Mahon, who directed him to step out of the vehicle, while Lt. Bobo simultaneously directed § 87(2)(b) to exit. § 87(2)(b) stated that neither he nor § 87(2)(b) smoked marijuana prior to the incident. No officer mentioned smelling marijuana. Both individuals exited the car, and PO Twohig began to pat down § 87(2)(b) patting down his legs, chest, arms, and socks, and went into his jacket pockets. § 87(2)(b) observed Lt. Bobo pat down § 87(2)(b) chest, legs, front of her stomach, and butt; during this, § 87(2)(b) continually told Lt. Bobo that he could not touch her and requested a female officer. At one point during this, § 87(2)(b) was handcuffed, which one of the officers informed § 87(2)(b) was because they were waiting for a female officer to come to scene to search her further. After he was searched, § 87(2)(b) was directed to the back of vehicle, where his license was run, and it was determined that he had an open warrant. § 87(2)(b) was then handcuffed and transported to the 73rd Precinct stationhouse. Two grams of marijuana was recovered from § 87(2)(b) although he did not know from where [BR10, 11, and 12].

§ 87(2)(b) testimony was consistent with § 87(2)(b) s. As § 87(2)(b) turned left onto Saint John's Place, they were pulled over. § 87(2)(b) did not commit any VTL violations prior to being pulled over. PO Twohig approached § 87(2)(b) and directed him to exit the vehicle. Lt. Bobo and PO Mahon approached § 87(2)(b) and instructed her to exit. Prior to exiting, § 87(2)(b) told the officers to "not even try" to search her and to call a female officer to the scene. Lt. Bobo then informed her that the car smelled like marijuana; § 87(2)(b) acknowledged to the investigation that she had smoked with a friend prior to being picked up by § 87(2)(b) and that the smell may have lingered on her clothes. She did not smoke in the vehicle at any point. She did not recall if she informed the officers that she had smoked earlier. Lt. Bobo and PO Mahon both attempted to search § 87(2)(b) but she moved out of their reach and reiterated that she wanted a female to search her. PO Mahon then searched the vehicle, going into the passenger seat, middle console, and glove compartment. He also searched her bag, recovering less than a gram of weed. An additional police vehicle, carrying PO Wright and PO Rodriguez, arrived on scene and Lt. Bobo, PO Twohig, and PO Mahon transported § 87(2)(b) off scene. PO Wright searched § 87(2)(b) going into her pockets and patting down her body. She was then transported to the 73rd Precinct stationhouse [BR13 and 14].

Lt. Bobo testified that he was with PO Mahon, who was operating the vehicle, sitting in the front passenger seat, with PO Twohig sitting in the backseat. As they were driving, Lt. Bobo observed a vehicle driving above the speed limit and moving across the yellow lines, as well as run a red light. Lt. Bobo activated the car's lights and sirens and pulled the vehicle over, which did not stop until after 15 to 30 seconds. Lt. Bobo exited and approached the front passenger side and PO Mahon and PO Twohig approached the front driver. As he approached the vehicle, he smelled the odor of lit marijuana coming from the vehicle, whose windows were down. He could not hear what conversation PO Mahon and PO Twohig were having with § 87(2)(b) he did not know if either officer informed § 87(2)(b) that they smelled marijuana, but he informed § 87(2)(b) of this. He instructed PO Mahon to remove § 87(2)(b) from the car, who complied with this order. Once § 87(2)(b) was out of the vehicle, PO Mahon frisked his whole body and was then directed to the rear of the vehicle. Lt. Bobo then went to remove § 87(2)(b) from the vehicle, who complied with his instruction to exit. As he went to search her, to ensure she did not have marijuana or weapons on her, she pulled back and informed him that she would not let him touch her and that she wanted a female officer to search her. Lt. Bobo called for a female to the scene and then handcuffed § 87(2)(b) as she had not been searched yet. She was brought to the back of vehicle with § 87(2)(b) who was under arrest for an outstanding warrant. PO Twohig searched the vehicle, although he did not recall exactly where, and recovered a small amount of marijuana from § 87(2)(b) bag. Lt. Bobo waited on scene for the female officer, PO Wright, to arrive, who then searched § 87(2)(b) PO Wright informed him on scene that § 87(2)(b) had a small amount of marijuana on her person, although he did not recall where or how much. He and either PO Twohig or PO Mann transported

§ 87(2)(b) to the 73rd Precinct stationhouse, while the other officer transported § 87(2)(b)'s car [BR15].

PO Twohig's testimony was largely consistent with Lt. Bobo's. PO Twohig stated he was the operator and as he was driving, he observed a vehicle with excessive tints and a paper plate, which he was unable to verify was not expired while driving. PO Twohig activated the lights and sirens and pulled the car over; it initially sped up, but eventually pulled over after 25 to 30 seconds. PO Twohig remained in the vehicle in case the stopped car drove away, as it had initially sped up. After 10 to 15 seconds, he observed § 87(2)(b) remove the key from the ignition and turn the car off, and he exited the vehicle. As PO Twohig approached the vehicle, he smelled the odor of unlit marijuana coming from the vehicle. At this point, PO Mahon was instructing § 87(2)(b) to exit the vehicle, which PO Twohig assumed was due to the odor of marijuana. PO Mahon then frisked § 87(2)(b)'s whole body, although PO Twohig did not recall if he went into any pockets. While § 87(2)(b) was at the rear of the vehicle, he and PO Mahon informed him that he was stopped because of his tints. Once § 87(2)(b) was brought to the rear of the vehicle, PO Twohig searched the car, starting with the passenger side, where he found a bag of marijuana in § 87(2)(b)'s bag. He additionally searched the center console, under all the seats (front and rear), and the backseat. PO Twohig did not believe that the window tints were measured during the stop. PO Twohig and Lt. Bobo transported § 87(2)(b) back to the stationhouse, while PO Mahon transported his vehicle [BR16].

PO Mahon testified that § 87(2)(b)'s vehicle was pulled over for excessive tints but did not recall if there was any other reason as to why he was pulled over. Upon approaching the vehicle's driver side, he smelled the strong odor of marijuana coming from the vehicle but did not recall if it was lit or unlit. He directed § 87(2)(b) to step out of the vehicle, who complied. He then frisked § 87(2)(b)'s entire body but did not recall if he entered into any of his pockets. He stated that, in a car stop involving the odor of marijuana, an individual would be searched to verify that they did not have any drugs or weapons on their person. There was no other reason, aside from the odor of marijuana, as to why PO Mahon frisked § 87(2)(b). Once § 87(2)(b) was frisked, he was brought to the rear of the vehicle, along with § 87(2)(b). PO Mahon then ran § 87(2)(b)'s name and determined that he had an active summons warrant. He then handcuffed § 87(2)(b) and an additional unit was called to transport him to the 73rd Precinct stationhouse. PO Mahon did not recall who transported § 87(2)(b) but stated he transported the vehicle back to the stationhouse [BR17].

PO Wright testified that she responded to a radio run call for additional units at Saint Johns Place and Ralph Avenue. The call did not have any additional information or mentioned the need for a female officer to the scene. Upon arriving, PO Wright was instructed by one of the officers on scene, she did not recall who, to frisk § 87(2)(b) as she had been arrested for possession of marijuana and had yet to be searched or frisked. PO Wright frisked the outline of § 87(2)(b)'s body, but did not enter any pockets. She stated that the frisk was conducted incidental to § 87(2)(b)'s arrest; she did not recover anything on her person. She and her partner, PO Rodriguez, transported § 87(2)(b) back to the 73rd Precinct stationhouse, where she was searched, incidental to her arrest, by the front desk. PO Wright stated that she was searched at the stationhouse to ensure that they did not miss anything on her person before lodging her in the holding cell. She did not recover anything on § 87(2)(b)'s body. She did not have any further contact with § 87(2)(b) [BR18].

Lt. Bobo's BWC shows Lt. Bobo informing § 87(2)(b) at 2:15 minutes that she is under arrest for the odor of marijuana coming from her car [BR01]. PO Mahon's BWC shows him asking § 87(2)(b) to step out of the vehicle at 00:58 minutes. It cannot be seen what physical actions he is taking with § 87(2)(b) but at 1:05 minutes, asks § 87(2)(b) "are these the keys to the car?". At 1:13 minutes, PO Mahon frisks § 87(2)(b)'s legs and then directs him to the rear of the vehicle. He does not mention smelling the odor of marijuana in the BWC [BR03]. PO Twohig's BWC shows him searching the vehicle at 3:00 minutes; after searching § 87(2)(b)'s jacket and bag in

addition to the vehicle and informs Lt. Bobo and PO Mahon that he found “it” in § 87(2)(b) bag, although he does not clarify on camera what they found [BR02].

A request for any summons issued to either § 87(2)(b) or § 87(2)(b) for this incident yielded negative results [BR19].

People v Chestnut (1974), 43 A.D.2d 260 rules that the odor of marijuana is sufficient to provide police officers with probable cause to search an automobile and its occupants [BR20].

As the reason for the car stop was inconsistent among the officers, with Lt. Bobo stating that § 87(2)(b) was pulled over for reckless driving and PO Twohig and PO Mahon testified that he was pulled over for excessive tints. As § 87(2)(b) and § 87(2)(b) testified that no VTL violations were committed prior to being pulled over and there is no footage depicting as § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

As the BWC footage captured the officers commenting on the smell of marijuana and § 87(2)(b) acknowledged smoking prior to getting into § 87(2)(b)'s vehicle, the investigation determined that the odor of marijuana was present during the vehicle stop. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Offensive Language: At the 73rd Precinct stationhouse in Brooklyn, Richard Catapano made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b).

Allegation (H) Discourtesy: At the 73rd Precinct stationhouse in Brooklyn, Richard Catapano spoke discourteously to § 87(2)(b).

Allegation (I) Discourtesy: At the 73rd Precinct stationhouse in Brooklyn, Police Officer Keith Stark spoke discourteously to § 87(2)(b).

Allegation (J) Offensive Language: At the 73rd Precinct stationhouse in Brooklyn, Police Officer Daniel Twohig made offensive remarks to § 87(2)(b).

Allegation (K) Abuse of Authority: At the 73rd Precinct stationhouse in Brooklyn, Lieutenant Alexander Bobo threatened § 87(2)(b) with the use of force.

Allegation (L) Abuse of Authority: At the 73rd Precinct stationhouse in Brooklyn, Sergeant Steven Franzel threatened § 87(2)(b) with the use of force.

Allegation (M) Offensive Language: At the 73rd Precinct stationhouse in Brooklyn, an officer made offensive remarks to § 87(2)(b).

Allegation (N) Offensive Language: At the 73rd Precinct stationhouse in Brooklyn, officers made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b).

Upon arriving at the 73rd Precinct stationhouse, § 87(2)(b) was brought to the holding cell, where Lt. Bobo, PO Twohig, and PO Mahon were there, as well as three other officers, PO Catapano, PO Stark, and Sgt. Franzel. PO Stark told § 87(2)(b) take off his shoes and socks, which he did. He then told § 87(2)(b) that he could not wear two pairs of pants, as he was wearing Underarmour under his sweatpants. § 87(2)(b) attempted to explain this to PO Stark, who repeated for him to remove his clothes. He then grabbed § 87(2)(b)'s arm and kicked his legs to get him to go the ground. § 87(2)(b) remained standing and PO Stark told him again to remove his pants. § 87(2)(b) then removed his sweatpants and Underarmour, to show the officers he had nothing in his pants, fully exposing himself. PO Catapano and PO Stark laughed at him, and PO Catapano told § 87(2)(b) he had a “small dick” and called him a faggot. Lt. Bobo and Sgt. Franzel pointed their tasers at him and PO Stark told § 87(2)(b) that they would tase him if he did not put his pants back on. Eventually, § 87(2)(b) put his clothes back on and he was

placed inside the holding cell. § 87(2)(b) stated that he requested medical attention, as he is diabetic and felt his blood sugar getting low. An ambulance was called and an EMT checked his blood sugar, but he was ultimately not removed to the hospital. At approximately 10:30 a.m. to 11:00 a.m. the next day, § 87(2)(b) was taken to the Brooklyn Central Booking, where his charges for marijuana possession and reckless driving, as well as his open warrant, were dropped [BR10, 11, and 12].

§ 87(2)(b) was kept outside the holding cell during the incident and was unable to hear the conversation between the officers and § 87(2)(b). At one point, Lt. Bobo and Sgt. Franzel entered the holding cell and pointed their tasers at § 87(2)(b) who, at one point, stripped off his clothing. He remained with his clothes off for about five minutes, when he was reclothed and placed inside the holding cell. § 87(2)(b) was placed in the holding cell with him, although they did not discuss what had occurred earlier. § 87(2)(b) was released with a summons for possession of marijuana after about 30 minutes [BR13 and 14].

PO Twohig testified that once he was back at the stationhouse, he, along with PO Stark and PO Catapano, lodged § 87(2)(b) in the holding cell. He became verbally non-compliant with the officers, telling them he was going to “make it hard” for them to lodge him and refused to remove his shoes and socks, which is part of the lodging process. PO Catapano and PO Stark then removed § 87(2)(b)’s shoes and socks; when they did this, § 87(2)(b) who was sitting down, stood up and removed all of his clothing, including his underwear, fully exposing himself. He asked the officers, “Is this what you want?”, which PO Twohig took to mean that § 87(2)(b) thought the officers wanted him to strip. The officers instructed § 87(2)(b) to put his clothes back on, which he eventually did. Once he was re-clothed, § 87(2)(b) was lodged into the holding cell. PO Twohig did not tell § 87(2)(b) that he had a “small dick” and did not hear any officer make this statement. He did not refer to § 87(2)(b) as a faggot and did not hear any officer make this statement. He did not have any physical contact with § 87(2)(b) while in the holding cell. After § 87(2)(b) was lodged, PO Twohig did not have any further interaction with him, as the arrest went to another officer [BR16].

PO Stark did not have an independent recollection of the incident. He did not recall § 87(2)(b) stripping inside the holding cell. He did not recall any officers making derogatory comments towards § 87(2)(b)’s genital or sexuality. He did not recall any officers entering the holding cell with their tasers drawn. PO Stark reviewed PO Twohig’s BWC from 18:02 minutes until the end of the video, capturing the entire incident inside the holding cell [B21].

Lt. Bobo’s testimony was consistent with PO Twohig’s. He remained outside the holding cell while § 87(2)(b) was being processed, although he was able to see into the area. As § 87(2)(b) was being processed, Lt. Bobo observed him making “pre-assault indicators” towards the officers, such as having his hands up, stepping towards the officers, and raising his voice. After 30 seconds, Lt. Bobo entered the holding cell with Sgt. Franzel, whom he identified from stationhouse footage. He did not recall if he withdrew his taser. The officers were instructing § 87(2)(b) to remove his shoes and socks, which he refused to do. At one point, § 87(2)(b) removed all his clothing, stripping naked. After a minute, he put his clothes back on and was placed back in the holding cell. Once lodged, Lt. Bobo did not have any further interaction with § 87(2)(b). He did not hear any officer refer to § 87(2)(b) as a faggot or say that he had a “small dick” [BR15].

Sgt. Franzel stated that he did not initially remember the incident. He did not recall § 87(2)(b) removing his clothing while in the holding cell or entering the holding cell with his taser drawn. He did not recall any officer making derogatory comments regarding § 87(2)(b)’s genitalia or sexuality and did not do this himself [BR22].

PO Twohig’s BWC shows the officer, along with PO Catapano and PO Stark lodging him in the holding cell at 19:10 minutes. At 19:29 minutes, PO Catapano begins to unhandcuff § 87(2)(b) and at 19:35 minutes say to him, “Fucking retard...if you move these, I can’t get them off you”. After § 87(2)(b) is released from the handcuffs, he is directed to remove his shoes and sweatpants, which he refuses to do, telling the officers, “I told you it would be a hard problem”. At

21:17 minutes, he is pulled down into a chair by the officers, who then remove his shoes. At 21:39 minutes, the sound of a taser can be heard, and § 87(2)(b) then takes off his socks. At 22:15 minutes, § 87(2)(b) stands up and asks if they want to take his sweatpants too, which PO Twohig responds yes. § 87(2)(b) then asks, “You want my underwear too?”, and then completely undresses. PO Twohig responds, “Nice, cool.” PO Twohig and the other officers tell § 87(2)(b) to put his clothes on, which then does. At 24:00 minutes, the officers and § 87(2)(b) have a back and forth, in which § 87(2)(b) tells the officers that they wanted him to take his clothes off and see how “big his shit is” and the officers respond that he decided to take his clothes off and at 24:14 minutes, an officer states that he “did not ask to see § 87(2)(b) dick”. At 24:30 minutes, an officer is heard saying, “I don’t really give a shit about your clothing” and PO Twohig tells § 87(2)(b) “You really look homeless.” At 25:20 minutes, an officer is heard telling saying § 87(2)(b) looks like, “a fucking bum”. § 87(2)(b) is then lodged in the holding cell and the officers leave [BR02].

Upon reviewing his BWC, PO Twohig testified that PO Catapano referred to § 87(2)(b) as a “fucking retard”, told him “I don’t really give a shit about your clothing”, and that he looked like “a fucking bum”. PO Twohig acknowledged that he told § 87(2)(b) that he looked homeless and explained that he made this statement because he could not verify his information, such as his name and address, and believed him to be homeless [BR16].

Upon reviewing PO Twohig’s BWC, PO Stark confirmed that he told § 87(2)(b) that he did not want to “see his dick”, which he said because § 87(2)(b) got undressed in the holding cell. He also confirmed that PO Catapano called § 87(2)(b) a “fucking retard”, told him “I don’t really give a shit about your clothing”, and that he looked like “a fucking bum” [BR21].

After reviewing stationhouse footage from the 73rd Precinct, Lt. Bobo confirmed that he withdrew his taser upon entering the holding cell and that he did so because § 87(2)(b) was not complying with the officers attempts to lodge him into the holding cell [BR15].

After reviewing the stationhouse footage, Sgt. Franzel acknowledged entering the holding cell with his taser drawn. He explained that he did this to gain compliance from § 87(2)(b) who was refusing to comply with the officers. His taser still had his cartridge still in place, so he would be unable to deploy the prongs or “spark test” it (activate the electric charge). He withdrew his taser for no other reason than to gain compliance from § 87(2)(b) [BR22].

According to Patrol Guide Procedure 203-10, a member of service is prohibited from using discourteous or disrespectful remarks regarding another person’s race, ethnicity, religion, gender, gender identity/expression, sexual identity, or disability [BR23].

Patrol Guide Procedure 203-09 states the members of service must interact with members of the public in a professional and courteous manner [BR24].

DAO-DCT Case #2017-17276, overseen by the Honorable Paul M. Gamble, determined that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation [BR25].

According to Patrol Guide Procedure 221-01, force may be used when it is reasonable to ensure the safety of a member of service or a third person, or to otherwise protect life, or when it is reasonable to place a person into custody. In determining whether the use of force is reasonable, a member of service should consider the nature and severity of the crime/circumstances, actions taken by the subject, the duration of the action, immediacy of the perceived threat or harm to the subject or MOS, whether the subject is actively resisting custody, is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject in comparison to MOS, subject’s violent history, presence of hostile crowd or agitators, or if the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR26].

§ 87(2)(g)

While PO Stark stated that the reason told § 87(2)(b) that he “did not want to see his dick” was because he had stripped in front of the officers, there was no valid law enforcement purpose to use discourteous language in conveying this to § 87(2)(b). In addition, the incident was not a violent confrontation § 87(2)(g).

While PO Twohig stated that the reason he referred to § 87(2)(b) as homeless was due to his lack of knowledge regarding his information, the investigation determined that from his tone and the context in which he made this statement, as depicted in the BWC, PO Twohig was not attempting to clarify § 87(2)(b)'s housing status but to make a disparaging remark based on § 87(2)(b)'s appearance. § 87(2)(g).

Both Lt. Bobo and Sgt. Franzel maintained that they took out their tasers to gain compliance from § 87(2)(b) whom they observed refusing to comply with the officers' order to remove his clothing and shoes. However, in withdrawing their taser, both officers indicated to § 87(2)(b) that they would have been justified in deploying their taser, which neither officer had the grounds to do so. § 87(2)(b) was already outnumbered by the three officers in the holding cell prior to Lt. Bobo and Sgt. Franzel entering. Additionally, § 87(2)(b) only verbally refused to remove his shoes and did not verbally or physically threaten the officers present, and therefore did not pose any immediate threat. § 87(2)(g).

While § 87(2)(b) alleged that an officer present referred to him as a faggot and stated that he had a “small dick”, no officer interviewed corroborated this and these alleged statements were not captured on BWC. § 87(2)(g).

Allegation (O) Untruthful Statement: On March 24, 2021, Police Officer Keith Stark provided a misleading official statement to the CCRB.

According to Patrol Guide Procedure 203-08, a misleading statement is a statement that is intended to misdirect the fact finder and materially alter the narrative by intentionally omitting a material fact or facts, making repeated claims of “I do not remember” or “I do not know” when a reasonable person under similar circumstances would recall or have aware of such material facts, or altering and/or changing a member's prior statement or account when a MOS is confronted with independent evidence indicating that an event did not occur as initially described [BR28].

While PO Stark did not make any statements during his CCRB interview intended to deceive the investigation, the investigation determined that PO Stark made a misleading statement in maintaining that he had no recollection of the incident. Firstly, PO Stark was shown extensive BWC footage of the incident, including § 87(2)(b) stripping in the holding cell, yet repeatedly stated that he did not recall the incident, despite identifying himself in the footage [BR21]. PO Stark's lack of recollection is difficult to credit, given the singular nature of the incident § 87(2)(b) stripping and exposing himself to the officers). All other officers interviewed in relation to this incident, PO Twohig, Lt. Bobo, and Sgt. Franzel, recalled § 87(2)(b) doing this, as well as other details of the incident. PO Twohig stated during his interview that the incident was very memorable as, “it is not every day someone decides to get naked...that's why I remember the incident so well, because it doesn't happen often” [BR16]. § 87(2)(g).

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to six CCRB complaints [BR29].
- This is the first CCRB complaint § 87(2)(b) has been party to [BR30].
- Lt. Bobo has been a member-of-service for 12 and has been a subject in 30 CCRB cases and 76 allegations, four of which have been substantiated:
 - Case #200915588, in which a stop - person was substantiated, in which the NYPD recommended Command Discipline – B, which was ultimately upheld.
 - Case #201212122, in which an allegation of a frisk and search of a person was substantiated but was dismissed by APU and no penalty was issued.
 - Case #201212149, in which an allegation of stop – person was substantiated, in which APU determined guilt and two vacation days were forfeited.
- Lt. Bobo currently has four other open CCRB case:
 - Case #201904933, in which a threat of arrest and a vehicle search allegation is pled, which is currently under Board Review.
 - Case #201908128, in which two allegations of gun pointed, an entry of premises, and a threat of arrest are pled, which is currently under Board Review.
 - Case #202003171, in which a physical force, threat of force, and interference with recording allegation is pled, which is currently under investigation.
 - Case #202006972, in which a physical force, entry of premises, forcible removal to hospital, and search of premises is pled, which is currently under investigation.
- Sgt. Franzel has been a member of service for 13 years and has been a subject in six CCRB complaints and 14 allegations, none of which were substantiated. § 87(2)(g)
- PO Twohig has been a member of service for five years and has been a subject in three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Stark has been a member of service for five years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)
 - PO Stark currently has one open CCRB case #201905130, in which a vehicle stop and gun fired allegation is pled, is currently under Board Review.
- PO Mahon has been a member of service for 11 years and has been a subject in two CCRB complaints and five allegations, three of which were substantiated:
 - CCRB case #201102448, in which a stop and question allegation were substantiated. The Board recommended charges, however, the NYPD recommended no disciplinary action and no discipline was ultimately given.
 - CCRB case #201903672, in which a failure to provide RTKA card allegation was substantiated. The Board recommended Command Level Instructions, which the NYPD upheld and was ultimately given to PO Mahon.

PO Mahon is the subject in three open CCRB cases:

- CCRB Case #201905130, in which a vehicle stop is pled, which is currently under Board review.
- § 87(2)(g)
- CCRB Case #202006585, in which a vehicle stop allegation is pled, which is currently under investigation.
- PO Wright has been a member of service for four years and has been a subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On July 16, 2021, a FOIL request was filed with the New York City Office of the Comptroller to determine if a Notice of Claim was filed in regards to this incident, the results of which will be added to the case file upon its receipt [BR31].

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad: _____8_____

Investigator: Genevieve Lamont Inv. Genevieve Lamont 03/03/2022
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 7/22/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date